Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Telecommunications Services Inside Wiring	)	CS Docket No. 95-184
Customer Premises Equipment	)	
In the Matter of	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992:	)	MM Docket No. 92-260
Cable Home Wiring	)	

COMMENTS OF THE REAL ACCESS ALLIANCE AND THE COMMUNITY ASSOCIATIONS INSTITUTE

Introduction

The Real Access Alliance and the Community Associations Institute (the "Associations")[1] respectfully submit these Comments in response to the Commission's Further Notice of Proposed Rulemaking (the "Further Notice"). The Commission has asked for comment on whether wiring behind sheetrock[2] should be treated in the same fashion as wiring

[1] A description of the parties is attached hereto as Exhibit A.

[2] We will use the term "sheetrock" in these comments because that is the term used in the Further Notice, but we must note that "Sheetrock" is a registered trade mark of USG Corporation. *See* http://www.usg.com/Legal_Privacy_Info/12_3_0_legal.asp. The generic building material is referred to by several terms, including wallboard, plasterboard, drywall, and gypsum board. *See* American Heritage Dictionary at 1386, 1662 (3d ed. 1992). To avoid any implication that the Commission is referring only to a particular brand name, we suggest that the Commission use the term "wallboard" or some other generic term in any order adopted in response to the Further Notice.

behind brick, metal or cinder block, for purposes of the determining the demarcation point between cable home wiring and home run wiring. Based on declarations received from experts in the multi-family housing industry, the Associations believe that the conclusions previously reached by the Commission in *In the Matter of Telecommunications Inside Wiring, Customer Premises Equipment and Implementation of the Cable Television and Consumer Protection and Competition Act of 1992: Cable Home Wiring*, First Order on Reconsideration and Second Report and Order, 18 FCC Rcd 1342 (2003) (the "*Reconsideration Order*"), were correct. Declarations from the following individuals are attached:

- Lyn Lansdale, Vice President of AvalonBay Communities, Inc. (*see* Lansdale Decl., attached as Exhibit B);
- Greg McDonald, Director of Telecommunications of Camden Property Trust (*see* McDonald Decl., attached as Exhibit C);
- Gregory O'Berry, President of AMLI Management Co., a subsidiary of AMLI Residential Properties Trust (*see* O'Berry Decl., attached as Exhibit D);
- Henry Pye, Director of Resident Services and Technology for JPI Partners, LLC (*see* Pye Decl., attached as Exhibit E); and
- Michael T. Tremmel, Manager of External Infrastructure for Forest City Residential Management, Inc. (*see* Tremmel Decl., attached as Exhibit F).

The declarants were asked to respond to the following questions derived from the Commission's Further Notice:

1. Is sheetrock a preexisting structural element that is an integral and permanent part of an MDU?
2. Should damage to or modification of ceilings and walls by alternative providers accessing inside wiring be considered "significant"?
3. What are the relative costs of accessing wiring behind sheetrock and behind brick or block or in metal conduit?
4. What is the cost of accessing wiring behind removable wall molding?

5. Is it likely that property owners and managers will not allow new service providers to cut sheetrock to install their own lines?

In summary, the owners and managers of apartment buildings believe very strongly that wiring located behind sheetrock should be considered inaccessible for purposes of the cable inside wiring rules, because for all practical purposes it is inaccessible. Accordingly, the rule adopted in the *Reconsideration Order* should be reinstated.

I. Sheetrock Is a Preexisting Structural Element.

When apartment owners are asked whether sheetrock is a "preexisting structural element," they are typically puzzled: this is a question only a lawyer would ask. To a property owner, it is self-evident that sheetrock is a preexisting structural element. Whether sheetrock is used in hallways, in the walls between units, in ceilings, or elsewhere in a building, it is undeniably a preexisting structural element. The sheetrock is installed as part of the construction of the building, and is integral to the overall structure: without the sheetrock, some other material – such as brick or cinder block – would have to be used to form walls and other building elements. Sheetrock is permanently fixed to the framing structure, and is not readily removed or designed to be removed.[3] The sheetrock is not a mere surface finish or decorative flourish. For the same reason, the sheetrock is clearly "preexisting:" it is not added after the building is completed.

In addition, sheetrock walls and ceilings perform critical functions in the structure of buildings. First of all, many buildings rely on the structural qualities of sheetrock to strengthen the entire structure; they do not rely only on the frame of the building for their structural strength.

[3] O'Berry Decl. at ¶ 2.

Internal walls made of sheetrock increase a building's "shear factor," which provides added structural support against diagonal stresses, such as those caused by high winds.[4]

Second, it is important to remember that multi-family buildings must meet different structural requirements than single family homes. Every hallway in an apartment building is a firewall, and every partition wall between units is also a firewall. Firewalls are rated under the International Building Code ("IBC") to withstand specified temperatures for specified times.[5] Thus, when a builder uses sheetrock in a hallway or a partition wall – as is very commonly done – the sheetrock must be constructed and installed in a fashion that will ensure that the fire code requirements are met.

Third, there are special types of sheetrock for specific applications. As National Home Centers, Inc., a commercial building materials supplier, explains:

> Water-resistant wallboard, with water-repellent cores and facing . . . [is] made for use in areas of high moisture or as a base for ceramic tile. Type X wallboard with extra fire resistance is sometimes required by building codes for special places, such as on walls between an attached garage and the main living area. Insulating wallboard has an aluminum foil backing to be used on the inside surfaces of exterior walls. Backer boards are used under another layer of wallboard or paneling.[6]

Thus, cutting into sheetrock to obtain access to wiring may result in a degradation of a building's resistance to moisture, or its sound or temperature insulating capability, as well as its resistance to fire. All of these characteristics affect the structural integrity of the building.

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[4] Lansdale Decl. at ¶ 3; McDonald Decl. at ¶ 3; Tremmel Decl. at ¶ 3.

[5] *See* Pye Decl. at ¶ 5. For example, corridor walls and walls separating dwelling units in the same building must have a fire resistance rating of one hour. IBC (2003 ed.) §§ 708.1, 708.3. The International Fire Code contains the same provisions. Both codes are promulgated by the International Codes Council. Forty-four states and the District of Columbia have adopted the IBC. *See* http://www.iccsafe.org/government/adoption.html.

[6] *See* http://www.nhci.com/sheetrock.html.

It also bears noting that when wiring is installed at the time of original construction, it is typically run behind the walls in hallways or above ceilings. For the reasons discussed above, any sheetrock used to construct those walls and ceilings will be a structural element. More importantly, however, the common sense reaction of apartment owners is really the key, because sheetrock is such a fundamental construction material in this country. In a very large proportion of apartment construction, if all of the sheetrock in a building were to be removed (or never installed), large sections of the interior of the building would be empty space, punctuated by studs and other framing elements.[7] All of this sheetrock is an integral part of the structure of the building, regardless of its location or function. Consequently, as a general rule, any sheetrock installation should be considered a preexisting structural element.

II. Property Owners Consider the Damage Caused When Providers Seek Access To Wiring Behind Sheetrock To Be Significant.

Any action that affects the structural integrity of a building, or its appearance, is considered significant by property owners.

The use of sheetrock in firewalls means that any breach of a sheetrock surface poses a safety risk. Gaps or holes in a firewall can allow heat and flame to penetrate the firewall. Any penetrations therefore must be repaired carefully to restore the fire rating of the breached element of the structure.[8] Improper repairs create both a safety hazard to building occupants, and a code violation for which the property owner is liable.[9] Similarly, cuts in specialty types of sheetrock that affect the building's resistance to water damage or its sound or temperature insulating

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[7] Pye Decl. at ¶ 3.

[8] Lansdale Decl. at ¶ 3; Pye Decl. at ¶ 5.

[9] *See generally* IBC § 712 (addressing penetrations in firewalls).

capacity have the potential to make the building less comfortable as a place to live; such cuts may also directly increase the property owner's costs if they lead to damage to the fabric of the building over time. Thus, any activity that penetrates sheetrock is very significant in the eyes of the property owner.

In addition, property owners are very concerned with the appearance of their buildings, because residents and prospective residents pay close attention to aesthetic issues. Consequently, any work involving cutting of sheetrock requires meticulous restoration. This is no small task, because obtaining access to wiring behind sheetrock requires the removal of sizable pieces of sheetrock, not only at the nominal demarcation point 12 inches outside a unit, but at numerous other places, either along a corridor or inside different units.[10] Often, property owners do not know exactly where the wiring is behind a wall, and finding hundreds of demarcation points within a typical apartment building is not a precise science.[11] Restoring a wall requires a great deal of effort, because the smoothness and texture of the surrounding surface must be matched.[12] Paint finishes must be matched exactly, which is difficult because paint often changes color as it ages. Thus, entire walls must be repainted. As Lyn Lansdale states:

> AvalonBay is in the business of providing residents with high-quality, attractive places to live. Our residents expect the property to be maintained in a very attractive condition. Drywall repair work is very difficult to hide – no matter how well done, it is almost always noticeable. Consequently, any action that harms the appearance of the building presents a significant problem for us. In addition, even relatively small cuts can be very expensive, because restoring the building's appearance may require extensive repainting and rewallpapering, over entire hallways, instead of just the patched areas. Furthermore, cutting into the drywall and then repairing it is a very messy process, which disrupts the

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[10] O'Berry Decl. at ¶ 4; Pye Decl. at ¶ 6.

[11] Lansdale Decl. at ¶ 5.

[12] Tremmel Decl. at ¶ 4.

> living environment while work is being done. Tenants do not like this kind of disruption, so we avoid it whenever possible.[13]

In short, in the opinion of property owners, gaining access to wiring located behind sheetrock causes significant damage.

III. The Damage Caused by Such Activity Is so Great that Property Owners Rarely Allow Providers To Cut Into Sheetrock To Install Wiring.

Cutting into sheetrock causes such significant damage and is so significant to property owners that owners simply do not allow it. For example, Lyn Lansdale states "AvalonBay does not allow providers to cut into drywall to access wiring." Lansdale Decl. at ¶ 6. Mr. Pye states "based on my knowledge of the industry in general, installing wiring by cutting into sheetrock is extremely rare." Pye Decl. at ¶ 7. Mr. Tremmel of Forest City states "I know first hand that drywall access in the residential arena is, in most cases, not even an option." Tremmel Decl. at ¶ 5.

Mr. O'Berry reports that he is currently dealing with a situation in which a cable provider installed improper wiring in several of AMLI's properties and is required to replace the wiring at its expense.[14] While correcting the problem would not require exactly the same steps as a "post-wiring" by a competing provider because the existing wiring must be removed, much of the work is analogous. The following is a description of the scope of work required:

> Remove any and all F-81 wallplates. Disconnect existing Cable from F-81 wallplates. Disconnect existing Cable from F-81 connector. Attach new Cable to existing Cable by splicing both Cables, twisting exposed wiring, and wrapping exposed wire in electrical tape. Remove and replace sheetrock as necessary. A hand tool must be used to avoid inadvertent disruption of existing wiring in ceilings and walls. Remove existing Cable

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[13] Lansdale Decl. at ¶ 4; *see also* Pye Decl. at ¶ 4.

[14] O'Berry Decl. at ¶ 5.

> from walls and detach from apartment unit demarcation point. Disconnect new Cable from existing Cable. Attach new F-81 connector to the new Cable. Attach new Cable to F-81 wallplates and apartment unit demarcation point. Replace F-81 wallplates. Test signal levels at each F-81 wallplate and achieve a signal strength of 0 db. Install fire caulking that meets or exceeds local building code requirements. Replace sheetrock where removed or otherwise damaged during the Work. Tape, bed, and texture sheetrock where removed or otherwise damaged during the Work to match the existing surface. Texture is required to be identical to the existing surface surrounding the affected area. Repaint all walls ceilings in the entire apartment unit where the Work was performed, pursuant to the instruction and color designation of Landlord. Remove any and all debris created by the Work including, but not limited to, cables, sheetrock refuse, dust, paint, and miscellaneous supplies and equipment at the end of each day.[15]

Mr. O'Berry states that even though replacing the improper wiring "is a contractual responsibility of the vendor, would improve the reliability of the wiring and be completely at the cost of the vendor, we have not yet replaced the wiring because of concerns about disruption to the property and its residents. We continue to negotiate a work plan that will minimize property disruption."[16]

These statements demonstrate that property owners are highly unlikely to allow new providers to cut walls and ceilings in order to install new lines or connect to existing ones. Consequently, the Commission's conclusion in the *Reconsideration Order* was undeniably correct, and that decision should be reinstated.

IV. Cost Information Is Difficult To Obtain, Because Such Installations Are so Rare.

The Associations can offer no reliable cost information in this area. It appears that, whatever the cost would be, it is prohibitive.[17] Essentially, property owners resist wiring installations that require cutting sheet rock so strongly, for the reasons give above, that it really is

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[15] *Id.*

[16] *Id.* at ¶ 6.

[17] "The cost and risk of [installation behind drywall] is just too high to justify it." Pye Decl. at ¶ 7.

not a cost issue. As Mr. McDonald of Camden states at paragraph 5 of his declaration, "[i]f the only way to install the wiring were to require cutting into walls, we would have to seriously consider whether the entire project would make sense from a business perspective." Thus, although cost could conceivably be a factor, the practical challenges of doing the job right are so obvious to the responsible management officials that drywall installations are simply not given enough consideration to warrant any serious cost analysis. This merely emphasizes the correctness of the Commission's original decision in the *Reconsideration Order*.

V. Wiring Behind Sheetrock Is Not "Accessible" Under State and Local Safety Codes.

The National Electric Code (the "NEC") defines the term "accessible," for purposes of wiring methods, as "[c]apable of being removed or exposed without damaging the building structure or finish or not permanently closed in by the structure or finish of the building."[18] Under this definition, wiring behind sheetrock is not considered accessible, since it cannot be removed or exposed without damaging the structure or finish of the building. Furthermore, such wiring is permanently closed in by the structure or finish. The term "accessible" for purposes other than wiring methods is defined more broadly.[19]

In most jurisdictions in this country, the NEC has the force of law.[20] While not binding on the Commission in this context, the NEC is instructive, because it represents the considered judgment of experts in the field of building safety. We urge the Commission to take that expert judgment into account in this case.

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[18] NEC Art. 100 (2005 ed.). The NEC is promulgated by the National Fire Protection Association.

[19] *Id.*

[20] *See, e.g.*, Wash. Admin. Code, § 296-24-95601. For a list of jurisdictions that have adopted the NEC, see http://www.mikeholt.com/conedu.php?id=adoptionlist.

CONCLUSION

For all the foregoing reasons, wiring behind sheetrock should be treated in the same fashion as wiring behind brick, block, and metal conduit.

Respectfully submitted,

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November 15, 2004

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EXHIBIT A

DESCRIPTION OF THE COMMENTERS

The Real Access Alliance ("RAA") is an *ad hoc*, unincorporated coalition of trade associations whose members include the Building Owners and Managers Association International, the Institute of Real Estate Management, the International Council of Shopping Centers, the National Apartment Association, the National Association of Industrial and Office Properties, the National Association of Realtors, the National Association of Real Estate Investment Trusts, the National Multi-Housing Council, and The Real Estate Roundtable. The RAA was formed to encourage free market competition among telecommunications companies for services to tenants in commercial and residential buildings, and to safeguard the constitutional property rights of America's real estate owners. Descriptions of the RAA's member associations appear below.

The Community Associations Institute ("CAI") was created to educate and represent America's residential community association industry. CAI's members include condominium and homeowner associations, cooperatives, and association-governed planned communities of all sizes and architectural types; community association managers and management firms; individual homeowners; lawyers, accountants, engineers, builders/developers and other providers of professional services and products for community associations. CAI has nearly 15,000 members in 55 chapters throughout the United States and in several foreign countries.

The members of the RAA are:

- The Building Owners and Managers Association (BOMA) International is an international federation of 108 local associations. BOMA International's 19,000 members own or manage more than 9 billion square feet of downtown and suburban commercial properties and facilities in North America and abroad. The mission of BOMA International is to advance the performance of commercial real estate through advocacy, professional competency, standards and research.
- The Institute of Real Estate Management ("IREM") educates real estate managers, certifies the competence and professionalism of individuals and organizations engaged in real estate management, serves as an advocate on issues affecting the industry, and enhances and supports its members' professional competence so they can better identify and meet the needs of those who use their services. IREM was established in 1933 and has 10,000 members across the country.
- The International Council of Shopping Centers ("ICSC") is the trade association of the shopping center industry. ICSC now has over 50,000 members worldwide in the United States, Canada, and more than 70 other countries, representing owners, developers, retailers, lenders, and all others having a professional interest in the shopping center industry. ICSC's approximately 45,000 United States members represent approximately 44,000 shopping centers in the United States.

- The National Apartment Association ("NAA") has been serving the apartment industry for 60 years. It is the largest industry-wide, nonprofit trade association devoted solely to the needs of the apartment industry. NAA represents approximately 29,597 rental housing professionals holding responsibility for more than 4,911,000 apartment households nationwide.
- The National Association of Industrial and Office Properties ("NAIOP") is the trade association for developers, owners, and investors in industrial, office, and related commercial real estate. NAIOP is comprised of over 9,500 members in 46 North American chapters and offers its members business and networking opportunities, education programs, research on trends and innovations, and strong legislative representation.
- The National Association of Real Estate Investment Trusts ("NAREI") is the national trade association for real estate investment trusts (REITs) and publicly-traded real estate companies. Its members are REITs and other businesses that own, operate, and finance income-producing real estate, as well as those firms and individuals that advise, study and service those businesses.
- The National Association of Realtors ("NAR") is the nation's largest professional association, representing more than 720,000 members. Founded in 1908, the NAR is composed of residential and commercial realtors who are brokers, salespeople, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry. The association works to preserve the free enterprise system and the right to own, buy, and sell real property.
- The National Multi-Housing Council ("NMHC") represents the interests of the larger and most prominent firms in the multi-family rental housing industry. NMHC's members are engaged in all aspects of the development and operation of rental housing, including the ownership, construction, finance, and management of such properties.
- The Real Estate Roundtable ("RER") provides Washington representation on national policy issues vital to commercial and income-producing real estate. RER addresses capital and credit, tax, environmental, technology and other investment-related issues. RER members are senior executives from more than 200 U.S. public and privately owned companies across all segments of the commercial real estate industry.

EXHIBIT B

Before the
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Washington, D.C. 20554

In the Matter of	)	
Telecommunications Services Inside Wiring	)	CS Docket No. 95-184
Customer Premises Equipment	)	
In the Matter of	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992:	)	MM Docket No. 92-260
Cable Home Wiring	)	

DECLARATION OF LYN LANSDALE
IN SUPPORT OF COMMENTS OF
REAL ACCESS ALLIANCE

I, Lyn Lansdale, declare as follows:

1. I submit this Declaration in support of the Comments of the Real Access Alliance, in response to the Further Notice of Proposed Rulemaking in the above matters. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am Vice President of AvalonBay Communities, Inc., responsible for the generation of ancillary income and the creation of new services for our residents. I have served in that capacity since September 1996. In the course of my duties, I have become generally

familiar with the construction and design of wiring installed in multiple dwelling units ("MDUs") in order to deliver cable service to residents, and with the effects of such installations on our buildings. AvalonBay is the20th largest owner of apartment properties in the United States, and owns a total of 148 properties as of September 2004 in the following states: California, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Virginia, Washington, and the District of Columbia.

3. Sheetrock, or drywall, is considered a structural element of an MDU, for two reasons. First, in many cases, drywall is used to provide structural support on the upper floors of multi-story buildings. The drywall increases the building's "shear value," which measures strength to withstand diagonal stresses, such as strong winds. Thus, cutting the drywall in these areas would weaken the structure. Second, in some structures the sheetrock constitutes an element in the fire protection system of the building. Breaching the drywall and failing to seal any gaps or holes properly may create a safety hazard and violate fire code requirements. For these reasons, sheetrock is an integral and permanent part of an MDU.

4. AvalonBay considers damage to or modification of walls and ceilings made of sheetrock in order to obtain access to inside wiring as significant for several reasons. Not only will cutting the sheetrock affect the structural integrity of the building and create the risk of violating fire codes, but cutting walls and ceilings has a significant negative effect on the appearance of the building. AvalonBay is in the business of providing residents with high-quality, attractive places to live. Our residents expect the property to be maintained in a very attractive condition. Drywall repair work is very difficult to hide – no matter how well done, it is almost always noticeable. Consequently, any action that harms the

appearance of the building presents a significant problem for us. In addition, even relatively small cuts can be very expensive, because restoring the building's appearance may require extensive repainting and rewallpapering, over entire hallways, instead of just the patched areas. Furthermore, cutting into the drywall and then repairing it is a very messy process, which disrupts the living environment while work is being done. Tenants do not like this kind of disruption, so we avoid it whenever possible.

5. It is also important to understand that a building owner often does not know exactly where the wiring runs behind the walls of a building. This is especially true in older buildings, where wiring plans may not have been kept, if they existed in the first place. Thus, the "demarcation point," while neatly defined in the FCC's rules, is often not so easy to locate, and finding hundreds of demarcation points in a particular property can result in very significant damage.

6. For all the reasons discussed above, AvalonBay does not allow providers to cut into drywall to access wiring. We do not have comparative cost figures, simply because we do not engage in the activity.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on November 11th, 2004, at Alexandria, VA.

Lyn Lansdale

Lyn Lansdale

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EXHIBIT C

Before the
FEDERAL COMMUNICATIONS COMMISSION
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Customer Premises Equipment	)	
In the Matter of	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992:	)	MM Docket No. 92-260
Cable Home Wiring	)	

DECLARATION OF GREG MCDONALD
IN SUPPORT OF COMMENTS OF
REAL ACCESS ALLIANCE

I, Greg McDonald, declare as follows:

1. I submit this Declaration in support of the Comments of the Real Access Alliance, in response to the Further Notice of Proposed Rulemaking in the above matters. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am the Director of Telecommunications at Camden Property Trust, a Texas Real Estate Investment Trust, and am responsible for all of the low voltage infrastructure and telecommunications services for all of Camden's apartment communities nationwide. I

have served in this capacity since March, 1996. In the course of my duties, I have become very familiar with the construction and design of wiring installed in multiple dwelling units ("MDUs") in order to deliver cable service to residents, and with the effects of such installations on our buildings. Camden is the twelfth largest owner of apartment properties in the United States, and owns a total of one hundred and forty-five (145) properties, with fifty-two thousand eight (52,008) units in the following ten (10) states: California, Nevada, Arizona, Colorado, Texas, Missouri, Kentucky, Florida, North Carolina and Virginia.

3. Sheetrock is without a doubt a preexisting structural element of an MDU. Sheetrock provides structural support as well as fire and insulation protection to the building.

4. Damage to or modification of walls and ceilings made of sheetrock in order to obtain access to inside wiring is significant because any time sheetrock is damaged by an outside force, the integrity of the sheetrock will be permanently compromised. The significance of the damage will depend on the total amount of sheetrock that is compromised. In my opinion, the amount of sheetrock that would need to be cut in order to allow a competitive provider to obtain access to existing inside wiring within the unit, and then installing new wiring from that point to back to the demarcation point would be extensive and therefore very significant.

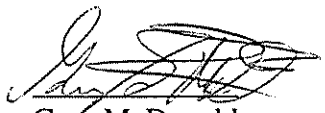
5. For all the reasons discussed above, Camden does not allow providers to cut into drywall to access wiring. There have been cases in which we have installed new wiring in an existing community. In those cases, every effort was made to do so without cutting into walls, whether they were made of drywall or some other substance. We use open attic space, when possible, and in some cases have installed external molding to cover the

wire. If the only way to install the wiring were to require cutting into walls, we would have to seriously consider whether the entire project would make sense from a business perspective.

6. Any cost figures I might provide would be highly speculative, because this kind of "post-wiring" method is very destructive, highly intrusive, and very expensive. Furthermore, this specific method of "post-wiring" has never been done at a Camden community. One thing I can say is that the cost of "post-wiring" will always be much higher than the cost of installing wiring during new construction.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on November 12, 2004, in Houston, Texas.



Greg McDonald

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EXHIBIT D

Before the
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In the Matter of	)	
Telecommunications Services Inside Wiring	)	CS Docket No. 95-184
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Implementation of the Cable Television Consumer Protection and Competition Act of 1992:	)	MM Docket No. 92-260
Cable Home Wiring	)	

DECLARATION OF GREG O'BERRY
IN SUPPORT OF COMMENTS OF
REAL ACCESS ALLIANCE

I, Greg O'Berry, declare as follows:

1. I submit this Declaration in support of the Comments of the Real Access Alliance, in response to the Further Notice of Proposed Rulemaking in the above matters. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am President of AMLI Management Company ("AMLI"), a subsidiary of AMLI Residential Properties Trust, responsible for the operation and maintenance of our apartment properties, including overseeing the telecommunications service programs and

service provider relationships. I have been responsible for the telecommunications services programs since 1995. In the course of my duties, I have become generally familiar with the construction and design of wiring installed in multiple dwelling units ("MDUs") in order to deliver cable service to residents, and with the effects of such installations on our buildings. AMLI is the 34th largest owner of apartment properties in the United States, and owns a total of 79 apartment properties in the following states: Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Missouri and Texas.

3. Sheetrock, or drywall, is most definitely a structural element of an MDU. Each piece of sheetrock is affixed firmly to the framing structure of the building with numerous nails or screws, and then finished to appear as an integral part of the structure. Sheetrock cannot be, nor is it, readily removed, and it therefore becomes an integral, permanent part of the structure. Sheetrock provides both fire resistance qualities and "shear" resistance for wood frame apartment structures. In fact, it is so integral that AMLI has gone to great lengths to avoid replacing cable TV wiring in the walls of apartments even when AMLI has learned that contractors have installed wiring that did not meet the specifications called for under installation contracts.

4. AMLI considers damage to or modification of walls and ceilings made of sheetrock in order to obtain access to inside wiring to be significant because the methods used to access existing wiring at the demarcation point and to install new wiring between the demarcation point and a more accessible point cause extensive damage. The sheetrock must be cut to get access to the demarcation point, but may also need to be cut in numerous other places along a corridor or within different apartment units. Sheetrock installed on load bearing walls and ceilings are fire rated walls per building code, and all

intrusion points between framing studs behind the sheetrock must be sealed with fire caulk to maintain the proper fire safety rating required by local and national building codes.

5. I am familiar with the details of this type of work because of a cable provider installed improper wiring in several of our properties and is required to replace the wiring at its expense. The following is a description of the scope of work involved in that project: Remove any and all F-81 wallplates. Disconnect existing Cable from F-81 wallplates. Disconnect existing Cable from F-81 connector. Attach new Cable to existing Cable by splicing both Cables, twisting exposed wiring, and wrapping exposed wire in electrical tape. Remove and replace sheetrock as necessary. A hand tool must be used to avoid inadvertent disruption of existing wiring in ceilings and walls. Remove existing Cable from walls and detach from apartment unit demarcation point. Disconnect new Cable from existing Cable. Attach new F-81 connector to the new Cable. Attach new Cable to F-81 wallplates and apartment unit demarcation point. Replace F-81 wallplates. Test signal levels at each F-81 wallplate and achieve a signal strength of 0 db. Install fire caulking that meets or exceeds local building code requirements. Replace sheetrock where removed or otherwise damaged during the Work. Tape, bed, and texture sheetrock where removed or otherwise damaged during the Work to match the existing surface. Texture is required to be identical to the existing surface surrounding the affected area. Repaint all walls ceilings in the entire apartment unit where the Work was performed, pursuant to the instruction and color designation of Landlord. Remove any and all debris created by the Work including, but not limited to, cables, sheetrock refuse, dust, paint, and miscellaneous supplies and equipment at the end of each day.

6. While replacing the improper wiring in the situation described above is a contractual responsibility of the vendor, would improve the reliability of the wiring and be completely at the cost of the vendor, we have not yet replaced the wiring because of concerns about disruption to the property and its residents. We continue to negotiate a work plan that will minimize property disruption.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on November 11, 2004, at Chicago,Illinois.

Gregory O'Berry

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EXHIBIT E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Telecommunications Services Inside Wiring	)	CS Docket No. 95-184
Customer Premises Equipment	)	
In the Matter of	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992:	)	MM Docket No. 92-260
Cable Home Wiring	)	

DECLARATION OF HENRY PYE
IN SUPPORT OF COMMENTS OF
REAL ACCESS ALLIANCE

I, Henry Pye, declare as follows:

1. I submit this Declaration in support of the Comments of the Real Access Alliance in response to the Further Notice of Proposed Rulemaking in the above matters. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am Henry Pye, Director of Resident Services and Technology for JPI Partners, LLC, and responsible for coordinating the business, legal, and technical aspects of voice, video and data services, site access and control, and other low voltage amenities and ancillary

services for JPI's MDU communities. I have served in that capacity since January 2001. Over the past four years, I have coordinated the wiring installation for over 70 communities in 30 States.

3. Sheetrock is a key structural element of any MDU. Sheetrock comprises the walls of almost all modern residential buildings. Without sheet rock, you would have an unfinished, uninhabitable shell instead of a residential building.

4. Cutting into the sheetrock and then repairing it is an expensive, messy process. Residents understandably do not enjoy having their walls cut into, their residence and personal items covered in sheetrock dust, and parts of their homes patched and repainted. Given the cost and tenant displeasure, we avoid cutting sheetrock whenever possible.

5. Sheetrock is also a critical element of a building's fire protection system. MDU buildings are not like single family residences – many of the internal walls are firewalls. A firewall consists of a wall with no openings built to prevent fire from spreading beyond one section of a building. They are the equivalent of firebreaks in landscape. Firewalls are required by national, state and local safety codes to meet specified standards. They are primarily categorized by how long they are able to withstand a fire. Depending on a building's design, the walls in hallways and between units may be firewalls. The biggest cause of firewall failure is unprotected or improperly protected penetrations. Though penetrations of cables, ducts, pipes and conduits must be sealed, firestopped, with noncombustible material having a fire-resistance rating equal to that of the firewall.

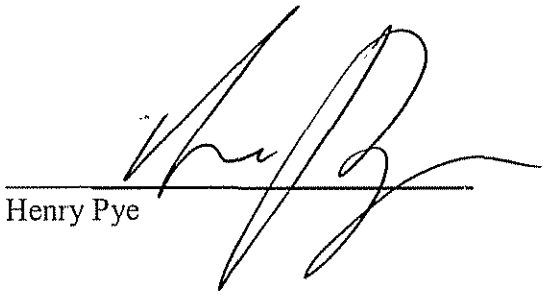
6. For new construction, a faceplate is approximately 150 feet from a provider's distribution device. In most existing buildings, the distance could easily exceed 300 feet. As a result,

installing a cable after sheetrock is installed requires numerous sheetrock and firewall penetrations.

7. For all the reasons discussed above and based on my knowledge of the industry in general, installing wiring by cutting into sheetrock is very rare. The cost and risk of such an installation is too high.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on November 06, 2004, at Durham, North Carolina.



Henry Pye

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EXHIBIT F

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Telecommunications Services Inside Wiring Customer Premises Equipment	)	CS Docket No. 95-184
In the Matter of Implementation of the Cable Television Consumer Protection and Competition Act of 1992: Cable Home Wiring	)	MM Docket No. 92-260

DECLARATION OF MICHAEL T. TREMMEL
IN SUPPORT OF COMMENTS OF
REAL ACCESS ALLIANCE

I, Michael T. Tremmel, declare as follows:

1. I submit this Declaration in support of the Comments of the Real Access Alliance, in response to the Further Notice of Proposed Rulemaking in the above matters. I am fully competent to testify to the facts set forth herein, and if called as witness, would testify to them.

2. I am Manager of External Infrastructure of Forest City Residential Management, Inc., responsible for the development, installation, and maintenance of low-voltage infrastructures for all Forest City Residential properties. I have served in that capacity

since September, 2003 as an employee of Forest City and previously served as their low voltage consultant for over ten years. In the course of my duties, I have become generally familiar with the construction and design of wiring installed in multiple dwelling units ("MDUs") in order to deliver cable service to residents, and with the effects of such installations on our buildings. Forest City is the 24th largest owner/manager of apartment properties in the United States, and owns/manages a total of 130 properties in the following states: California, Colorado, Connecticut, Florida, Illinois, Kentucky, Massachusetts, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia

3. Sheetrock is an integral part of the building structure of an MDU. National Fire Protection Association rules for fire safety include ratings for walls and standards for repairs to penetrations in drywall. In addition, drywall adds structural support to the wall.

4. I do not know of any way that cutting into a wall could not be considered "significant." Damage to the structure would compromise not only the physical components of the wall, but the aesthetics of the wall as well. For a wall to be repaired and returned to its original condition would take a major effort, including matching the smoothness and texture of the surrounding surface. In addition, paint finishes need to be matched exactly; this is very difficult because paints often changes color as it ages. Most of the time, the entire wall must be repainted.

5. In general (with some exceptions, depending on the overall construction of the building), installing new cabling inside existing sheetrock walls throughout a building is effectively impossible. I have been involved in the installation of communications systems for the

past 17 years, in almost every type of construction. I know first hand that drywall access in the residential arena is, in most cases, not even an option.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on November 11, 2004, at Honolulu, HI.

Michael T. Tremmel

Debbie Beck (Witness)

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